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FILING FEE EXEMPT PURSUANT TO
GOVERNMENT CODE § 6103

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

11 MAYRA ALVAREZ,
12 Plaintiff,
13 v.
14 JOSE HUIZAR, an individual; CITY OF
LOS ANGELES, a municipality; and DOES
15 1-10, inclusive,
16 Defendants.

Case No. 18STCV01722

[Assigned for All Purposes to:
Hon. Richard E. Rico, Dept. 17]

**DEFENDANT JOSE HUIZAR'S NOTICE OF
MOTION AND MOTION FOR AN ORDER
SEALING MOTION FOR STAY;
MEMORANDUM OF POINTS AND
AUTHORITIES; DECLARATION OF
CARMEN M. AGUADO**

(California Rules of Court Rules 2.550-2.551)

*[Filed concurrently with [Proposed] Order and
Notice of Lodging]*

Date: May 16, 2019
Time: 8:30 a.m.
Dept.: 17

RESERVATION NO.:761170692344

Action Filed: October 22, 2018
Trial Date: None Set

25 TO ALL PARTIES AND TO THEIR COUNSEL OF RECORD,
26 PLEASE TAKE NOTICE that, on May 16, 2019 at 8:30 a.m., or as soon thereafter as the
27 matter may be heard in Department 17 of the above-entitled Court, located at 111 N. Hill St., Los
28 Angeles, California 90012, Defendant JOSE HUIZAR (“Defendant Huizar”) will, and hereby

1 does, move pursuant to Rule 2.550 of the California Rules of Court for an Order permitting
2 Defendant Huizar to either:

- 3 1. File under seal a motion to stay all proceedings along with all documents concurrently
4 filed therewith; or, in the alternative,
- 5 2. File under seal the following portions of Defendant Huizar's motion to stay:
 - 6 a. Declaration of Mary Carter Andrues, Defendant Huizar's attorney related to the
7 criminal investigation:
 - 8 • Paragraphs 2, 3, 4, 6, 7, which include Ms. Andrues' thoughts and opinions
9 of the pending criminal investigation in relation to this instant civil case;
 - 10 b. Declaration of James H. Demerjian:
 - 11 • Exhibits 1 and 2, which include Plaintiff's discovery request that may
12 reveal confidential information related to the pending criminal
13 investigation that is not yet public; and
 - 14 c. Portions of the Motion to Stay that reference the sections of the Declarations of
15 Ms. Andrues and Mr. Demerjian that Defendant Huizar seeks to seal, which are
16 cited above:
 - 17 • Page 3, Lines 6-7;
 - 18 • Page 4, Lines 12-18;
 - 19 • Page 5, Lines 11-14;
 - 20 • Page 7, Lines 1-2; 3-6, 9-14;
 - 21 • Page 7, Line 24 – Page 8, Line 3;
 - 22 • Page 8, Lines 5-7; 14-22; 25-27; and
 - 23 • Page 9, Lines 4-16.

24 As set forth below, good cause exists to seal the motion to stay or, in the alternative, the
25 aforementioned portions of Defendant Huizar's motion to stay because (i) Defendant Huizar has
26 an overriding interest in maintaining information related to the pending criminal investigation and
27 the work product of his attorney handling the criminal investigation, which is referenced within
28 his motion to stay and support thereof, confidential and his interest overcomes the right of public

1 access to this information; (ii) a substantial probability exists that the overriding interest will be
2 prejudiced if such information is not sealed; and (iii) Defendant Huizar's request for sealing is
3 narrowly tailored and no less restrictive means exist to achieve the overriding interest. Namely,
4 Defendant Huizar does not seek to seal all filings in this matter. He simply seeks to file one filing
5 – the motion to stay – under seal or, in the alternative, the select portions of the motion to stay
6 referenced above.

7 This motion is based on this notice, the accompanying Memorandum of Points and
8 Authorities, and the Declaration of Carmen M. Aguado, the papers and records on file herein, and
9 on any oral argument and documentary evidence as may be presented at the hearing on this
10 motion.

11 Dated: April 19, 2019

BURKE, WILLIAMS & SORENSEN, LLP

12 By: 
13

Susan E. Coleman
Carmen M. Aguado
Attorneys for Defendant
JOSE HUIZAR

28



Journal Technologies Court Portal

Court Reservation Receipt

Reservation			
Reservation ID: 761170692344	Status: RESERVED		
Reservation Type: Motion to Seal (Motion to Stay)	Number of Motions: 1		
Case Number: 18STCV01722	Case Title: MAYRA ALVAREZ vs JOSE HUIZAR, et al.		
Filing Party: City of Los Angeles (Defendant)	Location: Stanley Mosk Courthouse - Department 17		
Date/Time: June 24th 2019, 8:30AM	Confirmation Code: CR-TQXUVQVY4ZLNNE5GJ		

Fees			
Description	Fee	Qty	Amount
Motion to Seal (name extension) *** Fees Exempted by Gov Code 6103.1 ***	60.00	1	0.00
TOTAL			\$0.00

Payment	
Amount: \$0.00	Type: GOVT_EXEMPT

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION.

Defendant Jose Huizar (“Defendant Huizar”), an elected member of the Los Angeles City Council, respectfully submits this request to seal his motion to stay all proceedings in order to protect his private information, Constitutional rights, and his attorneys’ privileged work product. Defendant Huizar requests an order allowing the motion to stay to be filed under seal in its entirety, including the declarations of Mary Carter Andrues, Defendant Huizar’s attorney related to the criminal investigation, and James H. Demerjian and Exhibits attached thereto.

In the alternative, Defendant Huizar respectfully requests this Court to Order the following portions of the documents to be filed under seal:

- Declaration of Ms. Andrues:
 - Paragraphs 2, 3, 4, 6, 7, which include Ms. Andrues' thoughts and opinions of the pending criminal investigation in relation to this instant civil case;
 - Declaration of James H. Demerjian:
 - Exhibits 1 and 2, which include Plaintiff's discovery request that may reveal confidential information related to the pending criminal investigation that is not yet public; and
 - Portions of the Motion to Stay that reference the sections of the Declarations of Ms. Andrues and Mr. Demerjian that Defendant Huizar seeks to seal, which are cited above:
 - Page 3, Lines 6-7;
 - Page 4, Lines 12-18;
 - Page 5, Lines 11-14;
 - Page 7, Lines 1-2; 3-6, 9-14;
 - Page 7, Line 24 – Page 8, Line 3;
 - Page 8, Lines 5-7; 14-22; 25-27; and
 - Page 9, Lines 4-16.

Defendant Huizar respectfully submits this motion in order to protect his privacy and constitutional rights, including his Fifth and Sixth Amendment rights, pending resolution of a

1 purported criminal investigation initiated by the U.S. Attorney's Office and the Federal Bureau of
2 Investigation (FBI), which is under close scrutiny by the media. (*See* Decl. of Carmen M. Aguado
3 ("Aguado Decl.") ¶ 2.) Additionally, the documents filed in support of Defendant Huizar's
4 motion to stay contain attorney-word product that is necessary to demonstrate the heightened
5 importance of staying the civil matter.

6 As demonstrated below, there exists an overriding interest that overcomes the right of
7 public access to the records at issue. The overriding interest supports sealing the records and a
8 substantial probability exists that the overriding interest will be prejudiced if the records are not
9 sealed. Lastly, Defendant Huizar's proposed sealing is narrowly tailored and no less restrictive
10 means exist to achieve the overriding interest given he only seeks to seal a single filing in this
11 matter (the motion to stay) or, in the alternative, select portions of the filing. For these reasons,
12 Defendant Huizar respectfully requests this Court to grant his request to seal the motion to stay.

13 **II. THE RECORDS SHOULD BE SEALED BECAUSE DEFENDANT HUIZAR'S**
14 **INTERESTS OUTWEIGH THE RIGHT OF PUBLIC ACCESS TO THE**
15 **RECORDS.**

16 The public's right of access to judicial records is not absolute. Rather, California Rule of
17 Court 2.550 provides that certain materials meeting the Rule's criteria may be filed under seal.
18 Pursuant to Rule 2.550(d), a court should order that a record be sealed if:

- 19 (1) There exists an overriding interest that overcomes the right of public access to the
20 record;
- 21 (2) The overriding interest supports sealing the record;
- 22 (3) A substantial probability exists that the overriding interest will be prejudices if the
23 record is not sealed;
- 24 (4) The proposed sealing is narrowly tailored; and
- 25 (5) No less restrictive means exist to achieve the overriding interest.

26 *See also* Advisory Committee Comment to Cal. R. Ct. 2.550(d) (recognizing that "[u]nder
27 appropriate circumstances, various statutory privileges, trade secrets, and privacy interests, when

properly asserted, and not waived, may constitute ‘overriding interests’ that justify permanently sealing records submitted as a basis for adjudication).

Moreover, records may be sealed on the ground that the disclosure of said records may violate a party’s right to privacy, Fifth Amendment rights, and/or reveal attorney-work product. *See e.g., In re Marriage of Burkle* (2006) 135 Cal. App. 4th 1045, 1063, *as modified* (Feb. 1, 2006) (“The right to privacy is an inalienable right guaranteed under the California Constitution, and has been acknowledged as an overriding interest in certain individualized contexts.”); *see also United States v. Hyde* (N.D. Cal. 2002) 208 F. Supp. 2d 1052, 1056.

A. Defendant Huizar Has An Overriding Interest In Protecting His Privacy And Constitutional Rights That Are Implicated In The Underlying Motion To Stay And His Overriding Interests Support Sealing The Records.

Defendant Huizar seeks to file his motion to stay under seal because the information which the motion relies implicates Defendant Huizar’s right to privacy, potentially impinges his rights under the Fifth and Sixth Amendments, and discloses attorney-work product.

Here, protecting the integrity of the criminal investigation is implicated by virtue of the public nature of court filings in this matter – here, the motion to stay and the documents which it relies. Protecting the integrity of the criminal investigation, the status of which is discussed within Defendant Huizar’s motion to stay and documents filed in support thereof, as well as Defendant Huizar’s right to a fair trial are textbook interests used by courts to seal materials. *See United State Constitution, Fifth Amendment, California Constitution, Article I, § 15; NBC Subsidiary (KNBC-TV), Inc. v. Superior Court* (1999) 20 Cal.4th 1178, fn. 46; *see also Times Mirror Co. v. United States*, 873 F.2d 1210, 1213 (9th Cir. 1989) (“Openness may, for example, frustrate criminal investigations and thereby jeopardize the integrity of the search for truth that is so critical to the fair administration of justice.”).

Additionally, it is well established that attorney work product, which includes an attorneys’ thoughts and opinions on a matter, is privileged information. *See Meza v. H. Muehlstein & Co.* (2009) 176 Cal. App. 4th 969, 977. Here, Defendant Huizar intends to file the declaration of Mary Carter Andrues, Defendant Huizar’s attorney retained in relation to the

1 criminal investigation, in support of his motion to stay. Ms. Andrues' declaration contains her
2 thoughts and opinions related to the criminal investigation which are used to demonstrate the
3 heightened importance and necessity of staying this instant civil matter. While her work product
4 is necessary to demonstrate the merits of the motion to seal, it is not necessary to be accessed by
5 the public.

6 **B. A Substantial Probability Exists That Defendant Huizar's Overriding Interest**
7 **Would Be Prejudiced If The Records Are Not Sealed.**

8 If the records were not sealed, the effect on Defendant Huizar's Constitutional rights and
9 the integrity of the investigation would be substantial. This matter as well as the criminal
10 investigation are being followed closely by the media, and reported, which may spoil the public's
11 evaluation of this matter as well as the integrity of the investigation. (See Aguado Decl. ¶ 2.)

12 Defendant Huizar's interest would be prejudiced if the records are not sealed.

13 **C. Defendant Huizar's Request To Seal Is Narrowly Tailored And No Less**
14 **Restrictive Means Exists To Achieve The Overriding Interest.**

15 This motion is narrowly tailored because it seeks to seal only records pertaining to one
16 motion. To the extent that the Court is not inclined to seal the entirety of the motion to stay,
17 Defendant Huizar provides an even more narrowed request to redact particular portions of the
18 motion to stay and materials filed in support thereof. Redacted copies of the records could be
19 available for the public to access if this motion is not granted. Furthermore, less restrictive means
20 to secure this private information does not exist. Absent sealing, the records would become
21 public, the information contained in the records would be taken out of context, and Defendant
22 Huizar's Constitutional rights implicated in the investigation and in the defense of this matter
23 would be prejudiced.

24 **III. DEFENDANT HUIZAR HAS COMPLIED WITH THE PROCEDURAL**
25 **REQUIREMENTS OF RULE 2.551 OF THE CALIFORNIA RULES OF COURT.**

26 As the party seeking to maintain the confidentiality of the motion to stay and its
27 supporting documents, Defendant Huizar is required to lodge the records with the court at the

1 time the motion is made. *See* Cal. Rule of Ct. 2.551(b)(1) and (b)(4). Defendant Huizar has
2 complied with this requirement. (*See* Aguado Decl. ¶ 3.)

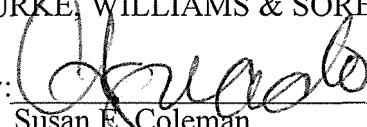
3 **IV. CONCLUSION**

4 For the reasons set forth above, Defendant Huizar respectfully requests the Court to grant
5 his motion.

6 Dated: April 19, 2019

BURKE, WILLIAMS & SORENSEN, LLP

7 By:


Susan E. Coleman
Carmen M. Aguado
Attorneys for Defendant
JOSE HUIZAR

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DECLARATION OF CARMEN M. AGUADO

I, CARMEN M. AGUADO, hereby declare and state as follows:

1. I am a member in good standing with the State Bar of California and an associate at the law firm of Burke, Williams & Sorensen, LLP, attorneys for Defendant JOSE HUIZAR (“Defendant Huizar”) in this action. I have personal knowledge of the facts set forth below, and, if called as a witness in this matter, I could and testify competently thereto under oath.

2. The U.S. Attorney's Office and FBI are currently conducting an investigation that includes Defendant Huizar. The criminal investigation, as well as this civil litigation, has received a significant amount of media coverage and exposure.

3. In compliance with Rules 2.551(b)(1) and (b)(4) of the California Rules of Court, my office lodged the records which Defendant Huizar seeks to seal with the court at the time the time of filing this instant motion.

I declare under penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct.

Executed April 19, 2019, at Los Angeles, California

CARMEN M. AGUADO

PROOF OF SERVICE

I, Susan Vasquez, declare:

I am a citizen of the United States and employed in Los Angeles County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 444 South Flower Street, Suite 2400, Los Angeles, California 90071-2953. On April 19, 2019, I served a copy of the within document(s):

**DEFENDANT JOSE HUIZAR'S NOTICE OF MOTION AND
MOTION FOR AN ORDER SEALING MOTION FOR STAY;
MEMORANDUM OF POINTS AND AUTHORITIES;
DECLARATION OF CARMEN M. AGUADO**

- by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
 - by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, the United States mail at Los Angeles, California addressed as set forth below.
 - by placing the document(s) listed above in a sealed _____ envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a _____ agent for delivery.
 - by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
 - by transmitting via my electronic service address (scoleman@bwslaw.com) the document(s) listed above to the person(s) at the e-mail address(es) set forth below.

(Service List attached)

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on April 19, 2019, at Los Angeles, California.


Susan Vasquez

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SERVICE LIST
Medina v. Huizar, et al.
18STCV03011

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